87 - 1495

NO.

in the Supreme Court of the United States

October Term, 1987

TALLAHASSEE BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,

Petitioners,

vs.

LEON COUNTY, FLORIDA, ET AL.,

Respondents.

On Petition for Writ of Certiorari To The United States Court of Appeals For the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

SUPPLEMENTAL APPENDIX

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

TALLAHASSEE BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE; ANITA L. DAVIS; HAROLD M. KNOWLES; NELSON E. BENNETT; MABLE J. SHERMAN; ARTHUR HUBBARD, III; RAYMOND THOMPSON; CHARLES U. SMITH; and LEONARD L. INGE, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

TCA 83-7480-WS

FINAL JUDGMENT

LEON COUNTY, FLORIDA; DOUG NICHOLS, Chairman Commissioner; GAYLE NELSON; BOB HENDERSON; BILL MONTFORD; and LEE VAUSE, County Commissioners of Leon County, Florida, their successors and agents, all in their official capacities,

Defendants.
_____/

On December 22, 1983, the above named plaintiffs filed their complaint against the above named defendants alleging that at-large county-wide voting for all members of the Board of County Commis-

sioners of Leon County, Florida, minimizes black representation and participation and dilutes black voting strength in violation of their rights secured by the Voting Rights Act of 1965, as amended, Publ. L. No. 97-205, §3, 96 Stat. 134 (1982), amending 42 U.S.C. §1973, et seq. (hereinafter "Voting Rights Act") and the Fourteenth and Fifteenth Amendments to the United States Constitution.

On March 16, 1986, this court, based on defendants' stipulation that they would not contest plaintiffs' allegation that the at-large system violated Section 2 of the Voting Rights Act, entered an order stating that "the at-large election system utilized to elect members of the Board of County Commissioners of Leon County, Florida, has the effect of denying black citizens equal access to the political process in violation of Section 2 of the

Voting Rights Act, as amended, 42 U.S.C. §1983."

On June 2, 1986, based on the court's characterization of defendants' proposed remedial election plan as a "legislative plan" in contrast to a "judicially imposed plan," plaintiffs have stipulated that the election plan proposed by defendants, which consists of seven members, five of which are elected from single member districts and two elected at-large, complies with Section 2 of the Voting Rights Act.

For the reasons set forth in the accompanying memorandum decision, the court hereby enters this final judgment.

IT IS THEREFORE, ADJUDGED, AND DECREED AS FOLLOWS:

1. This decree extends to all issues set forth in the complaint in this matter and to the class of plaintiffs defined as all black residents of Leon County, Florida.

2. This court has jurisdiction over the subject matter of this action and the parties thereto.

3. Defendants are enjoined from utilizing an election system under which all five members of the County Commission are elected at-large.

4. The attached "Election Plan," Appendices 1 through 3, sets forth the plan for future elections for members of the Leon County Commission in accordance with the Voting Rights Act.

5. The "Election Plan" provides for a seven member Board of County Commissioners to be established as follows:

(a) Five (5) County Commissioners shall be elected from single member districts by a simple majority with a run-off election requirement in the primary, if necessary. The Five Commissioners elected by district shall be required to reside in the district from which they are elected.

(b) Two (2) County Commissioners shall be elected on an at-large basis by simple majority vote with a run-off

election requirement in the primary, if necessary. The two Commissioners elected at-large may reside anywhere in the County.

(c) Election for five (5) district seats will be held in the primary and general elections in the fall of 1986.

Two (2) district seats will be for two (2) year terms and the remaining three (3) districts will be for four (4) year terms, thereafter all terms will be for four years.

6. The attached Appendices 1 through 3 are fully incorporated herein as part of the "Election Plan." Appendix 1 contains the demographic characteristics of each of the five single member districts. Appendix 2 contains the legal description of the boundaries for each of the five single member districts. Appendix 3 establishes the implementation of this "Election Plan" including the schedule of elections and a timetable for candidate qualification for the 1986 elections.

Therefore, the court finds that the "Election Plan" described herein is a

proper remedy in this action, and is adopted and incorporated by reference into this final judgment as attached.

7. All elections henceforth will proceed as follows: Five members of the County Commission will be elected on a single member district basis; that is, all candidates in future elections for the district seats must reside in the district for which they seek election and only voters in that particular district shall cast ballots for the particular candidates from that district; and two members of the County Commission shall be elected on at-large basis and may reside anywhere in the County and are elected by a county-wide vote.

8. The plaintiffs are the prevailing party in this action, and are entitled, pursuant to the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973(e), and Civil Rights Attorney Fees Awards Act of 1976,

42 U.S.C. §1988, to an award of attorney fees and litigation expense reimbursement. Within twenty days of the issuance of this final judgment, plaintiffs should file applicable fee/expense submissions and an accompanying memorandum to this issue. Defendants shall respond within twenty days from plaintiffs' filing.

9. Jurisdiction is reserved for further action of this court necessary to carry out the terms of this judgment.

DONE and ORDERED this 13th day of June, 1986.

/s/
WILLIAM STAFFORD
Chief Judge

APPENDIX # 1

FIVE SINGLE MEMBER DISTRICTS COUNTY PLAN

DIST	BLK. POP.	%	BLK. V.A.P.	%	BLK. REG. VTS.	%	BLK. POP. IN DIST. %	WHT. POP.	%	WHT. V.A.P.	%	WHT. REG. VTS.	%
1	18,243	60.8	12,781	57.3	10,200	57.8	49.8	11,496	38.3	9,307	41.7	7,407	41.9
2	5,978	20.3	4,506	18.6	2,949	22.2	16.3	22,752	77.2	19,076	78.9	10,232	76.9
3	2,574	8.7	1,663	7.6	1,587	8.8	7.0	26,472	89.7	19,456	90.7	16,288	90.9
4	4,017	13.5	2,544	12.1	2,050	10.0	11.0	25,283	85.2	18,229	86.7	18,310	89.9
5	5,828	19.4	3,619	16.4	2,619	15.7	15.9	23,780	79.2	18,202	82.3	13,970	83.9
TOT	36,640	24.7	25,113	22.6	19,425	22.5	100.0	109,783	73.9	82,270	75.9	66,207	76.9

APPENDIX #2

A Commissioner shall be elected from each of the following described districts:

District One: All the territory encompassed by the following described boundary, to wit: Begin at the intersection of the centerlines of Tharpe Street and Monroe Street; thence Southerly along the centerline of Monroe Street to its intersection with the centerline of Perkins Street; thence West along the centerline of Perkins Street to its intersection with the centerline of Adams Street; thence Southerly along the centerline of Adams Street to its intersection with the centerline of Monroe Street; thence Southeasterly along the centerline of Monroe Street ;until it becomes Woodville Highway to its intersection with the centerline of Rhodes Cemetery Road; thence Easterly along the centerline

of Rhodes Cemetery Road to its intersection with the Power Transmission Line right of way that runs between Saint Marks and Tallahassee; thence Southeasterly along said Power Transmission Line Right of Way to its intersection with the centerline of Oak Ridge Road; thence East along the centerline of Oak Ridge Road to its intersection with the centerline of Taff Road; thence Southerly along the centerline of Taff Road to its intersection with the centerline of Natural Bridge Road; thence West along the centerline of Natural Bridge Road to its intersection with said Power Transmission Line Right of Way; thence Southeasterly approximately 1.75 miles along said Power Transmission Line Right of Way to its intersection with the centerline of an unnamed Dirt Road in the NE 1/4 of Section 28, T-2-S, R-1-E; thence Easterly 0.15 miles, Southerly 0.33 miles and Westerly 0.1

miles along the centerline of said Dirt Road to its intersection with the centerline of said Power Transmission Line Right of Way; thence Southeasterly along said Power Transmission Line Right of Way to its intersection with the boundary between Leon County, Florida and Wakulla County, Florida; thence West, Northerly, and West along said county boundary to its intersection with the centerline of National Forest Road (NFR) 309; thence Northerly along the centerline of NFR 309 to its intersection with NFR 360; thence Northerly along the centerline of NFR 360 to its intersection with the centerline of NFR 367; thence Northerly along the centerline of NFR 367 to its intersection with the centerline of State Road 267; thence Westerly along the centerline of State Road 267 to its intersection with the centerline of NFR 305; thence Easterly along the centerline of NFR 305 to its

intersection with the centerline of NFR 358; thence Northerly along the centerline of NFR 358 to its intersection with the centerline of NFR 370; thence Easterly along the centerline of NFR 370 to its intersection with the Florida Gas Transmission Line Right of Way; thence Southerly along the Florida Gas Transmission Line Right of Way to its intersection with the centerline of Dog Lake Tower Road; thence Easterly along the centerline of Dog Lake Tower Road to its intersection with the centerline of Springhill Road; thence Northerly along the centerline of Springhill Road until it becomes Lake Bradford Road and continuing Northerly along the centerline of Lake Bradford Road to its intersection with the centerline of Gaines Street; thence East along the centerline of Gaines Street to its intersection with Gay Street; thence North along the centerline of Gay Street

to its intersection with the centerline of Madison Street; thence East along the centerline of Madison Street to its intersection with the centerline of Copeland Street; thence North along the centerline of Copeland Street to its intersection with the centerline of Tennessee Street; thence Westerly along the centerline of Tennessee Street to its intersection with the centerline of Buena Vista Drive; thence North along the centerline of Buena Vista Drive to its intersection with the centerline of Green Tree Lane; thence West along the centerline of Green Tree Lane to its intersection with the centerline of High Road; thence North along the centerline of High Road to its intersection with the centerline of Tharpe Street; thence East along the centerline of Tharpe Street to its intersection with the centerline of Monroe Street, to the POINT OF BEGINNING.

District Two: All that territory encompassed by the following boundary, to wit: Begin at the intersection of the centerlines of Tennessee Street and Copeland Street; thence Westerly along the centerline of Tennessee Street to its intersection with the centerline of Seaboard System Railroad Right of Way; thence Northerly along the centerline of Seaboard System Railroad Right of Way to its intersection with the centerline of Tharpe Street; thence Westerly along the centerline of Tharpe Street to its intersection with the centerline of Capital Circle; thence South along the centerline of Capital Circle to its intersection with the centerline of Tennessee Street; thence Westerly along the centerline of Tennessee Street to its intersection with the boundary between Leon County, Florida and Gadsden County, Florida; thence Southwesterly along said county boundary to

its intersection with the boundary between Leon County, Florida and Wakulla County, Florida; thence East along said county boundary to its intersection with the centerline of NFR 309; thence Northerly along the centerline of NFR 309 to its intersection with NFR 360; thence Northerly along the centerline of NFR 360 to its intersection with the centerline of NFR 367; thence Northerly along the centerline of NFR 367 to its intersection with the centerline of State Road 267; thence Westerly along the centerline of State Road 267 to its intersection with the centerline of NFR 305; thence Easterly along the centerline of NFR 305 to its intersection with the centerline of NFR 358; thence Northerly along the centerline of NFR 358 to its intersection with the centerline of NFR 370; thence Easterly along the centerline of NFR 370 to its intersection with the Florida Gas

Transmission Line Right of Way; thence Southerly along the Florida Gas Transmission Line Right of Way to its intersection with the centerline of Dog Lake Tower Road; thence Easterly along the centerline of Dog Lake Tower Road to its intersection with the centerline of Springhill Road; thence Northerly along the centerline of Springhill Road until it becomes Lake Bradford Road and continue Northerly along the centerline of Lake Bradford Road to its intersection with the centerline of Gaines Street; thence East along the centerline of Gaines Street to its intersection with Gay Street; thence North along the centerline of Gay Street to its intersection with the centerline of Madison Street; thence East along the centerline of Madison Street to its intersection with the centerline of Copeland Street; thence North along the centerline of Copeland Street to its

intersection with the centerline of Tennessee Street, to the POINT OF BEGINNING.

District Three: All that territory encompassed by the following boundary, to wit: Begin at the intersection of the centerlines of Tennessee and Buena Vista Drive; thence Westerly along the centerline of Tennessee Street to its intersection with the centerline of Seaboard System Railroad Right of Way; thence Northerly along the centerline of the Seaboard System Railroad Right of Way to its intersection with the centerline of Tharpe Street; thence Westerly along the centerline of Tharpe Street to its intersection with the centerline of Capital Circle; thence South along the centerline of Capital Circle to its intersection with the centerline of Tennessee Street; thence Westerly along the centerline of Tennessee Street to its intersection with

the boundary between Leon County, Florida and Gadsden County, Florida; thence Northeasterly along said county boundary to its intersection with the stream that runs into the Ochlockonee River in Section 4, T-2-N, R-1-W; thence Easterly along said stream to its intersection with the centerline of Orchard Pond Road; thence Easterly along the centerline of Orchard Pond Road to its intersection with the centerline of Meridian Road; thence Southerly along the centerline of Meridian Road to its intersection with the centerline of Tharpe Street; thence West along the centerline of Tharpe Street to its intersection with the centerline of High Road; thence South along the centerline of High Road to its intersection with the centerline of Green Tree Lane; thence East along the centerline of Green Tree Lane to its intersection with the centerline of Buena Vista Drive; thence South along

the centerline of Buena Vista Drive to its intersection with the centerline of Tennessee Street, to the POINT OF BEGINNING.

District Four: All that territory encompassed by the following described boundary, to wit: Begin at the intersection of the centerlines of Monroe Street and Tharpe Street; thence Southerly along the centerline of Monroe Street to its intersection with the centerline of Tennessee Street; thence Easterly along the centerline of Tennessee Street until it becomes Mahan Drive and continue Easterly on Mahan Drive to its intersection with the centerline of Magnolia Drive; thence Northerly along the centerline of Magnolia Drive to its intersection with the centerline of Miccosukee Road; thence Easterly along the centerline of Miccosukee Road to its intersection with the centerline of

Capital Circle; thence Northerly along the centerline of Capital Circle to its intersection with the centerline of Centerville Road; thence Northeasterly along the centerline of Centerville Road to its intersection with the centerline of Interstate Highway 10; thence Easterly along the centerline of Interstate Highway 10 to its intersection with the boundary between Leon County, Florida and Jefferson County, Florida; thence North, East, and Northerly along said county boundary to its intersection with the boundary between Leon County, Florida and Thomas County, Georgia; thence Westerly along said county boundary to its intersection with the boundary between Leon County, Florida and Grady County, Georgia; thence Westerly along said county boundary to its intersection with the boundary between Leon County, Florida and Gadsden County, Florida; thence Southerly along said

The election of the Commissioners from even numbered districts shall be for a term of two years and from odd numbered districts shall be for a term of four years. Thereafter all terms shall be for four years.

The two incumbent County Commissioners having unexpired terms after the General Election of 1986 shall serve as the at-large Commissioners for the remainder of their terms. In the General Election of 1988, one at-large Commissioner election shall be for a term of two years and one shall be for a term of four years. Thereafter all terms shall be for four years.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

TALLAHASSEE BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.,

Plaintiffs,

CIVIL ACTION NO. TCA 83-7480

vs.

LEON COUNTY, FLORIDA, et al.,

Defendants.
_____/

MEMORANDUM DECISION

THIS CAUSE is before this Court on the issue of the appropriate remedial election plan for the Leon County Board of County Commissioners. The present at-large plan was invalidated by order of this Court dated March 16, 1986, pursuant to the Defendants' stipulation that they would not defend the existing at-large election system against Plaintiffs complaint that the plan violated Section 2 of the Voting Rights Act.

Trial on the remedy was scheduled to commence June 2, 1986. On May 30, 1986, pursuant to motions of both parties, this Court agreed to rule on the issue of whether the "mixed plan" proposed by the Defendants was to be evaluated as "legislative" or "court-ordered." Decisions of the Supreme Court indicate that "court-ordered" plans must adhere to stricter standards than those proposed by legislative bodies.

Plaintiffs concede that the Defendants' plan calling for the Board of County Commissioners to be elected for five single member and two at-large seats complies with Section 2 of the Voting Rights Act. They contend, however, that because the county lacks the authority under state law to change its election system absent voter approval, the Defendants cannot propose a plan to the Court as a legislative plan. Plaintiffs'

position is that any plan adopted by this Court, regardless of its origin, must comply with the special requirements for court-ordered plans, most specifically, the requirement that absent special circumstances, such plan contain only single-member districts. East Carroll Parish School Board v. Marshall, 424 U.S. 636, 639 (1956). For the reasons set out below, I reject Plaintiffs' contention, and find the plan offered by the Defendants to be "legislative" and thus entitled to the deference normally afforded legislative judgment in apportionment matters. In light of Plaintiffs' concession that the proposed plan complies with the Voting Rights Act, it is hereby ordered that said plan be put into effect in the next regularly scheduled election.

Florida Law on Election Options Available to Counties

Prior to November, 1984, an at-large election system was the only method of election available to non-charter counties, such as Leon. Florida Constitution, Article VIII § 1(e). In 1984, the Constitution was amended to remove this limitation and to allow commissioners to be elected as provided by law. In 1985, Section 124.011 (Fla. Stat. [1985]) was enacted to allow non-charter counties the option of five single member districts, or a seven person Board, five elected from districts and two elected at-large. Absent voter approval pursuant to a referendum, however, all non-charter counties were to retain at-large elections.

Unlike non-charter counties, charter counties are not limited to the methods

of election set out in Florida Statutes, Chap. 124. On October 2, 1985 this Court granted Defendants' Motion for Continuance to allow the County Commission to submit to the voters a change to charter government, to be elected pursuant to a 4-3 mixed election plan. The change was rejected by the voters.[1] Thus, Leon County remains a non-charter county and as such is limited to the methods of election set out by statute, and may voluntarily change methods only with approval of the voters.

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[1]In their pretrial memorandum on the issue before me, the Plaintiffs indicate that the voters rejected a proposal similar to the plan Defendants now offer. From this they conclude that the voters have spoken, and the Commission should not be allowed to circumvent their judgment. It is not clear what the voters were rejecting. The change to charter county status may have been the important factor rather than the mixed plan. This Court cannot assume that just because the voters rejected a charter calling for one mixed system that they likewise would reject another mixed system which is available to non-charter counties. The voters could just as easily be seen as favoring retention of the at-large system, an option no longer open to them.

Applicable Law

Starting with Connor v. Johnson, 402 U.S. 690 (1971) the Supreme Court recognized that election plans imposed by federal courts on state and local governments must comply with stricter standards than those derived from legislative mandates. Lacking the political mandate to identify and reconcile competing state policies, a federal court has less latitude than does the legislative body. Absent special circumstances, court ordered plans must achieve population equality with only deminimus variation, Chapman v. Meier, 420 U.S. 1 (1975), and absent special circumstances, must avoid the imposition of multi-member districts. Id. at 19.

The stricter standards for court ordered plans do not, however, become applicable until such time as the court is called upon to substitute its judgment for that

of the legislative body. The Supreme Court has consistently recognized that apportionment is a legislative matter. Reynolds v. Sims, 377 US. 533 (1964); Upham v. Seamon, 456 US.. 37 (1982). Until the point is reached where the legislature is unwilling or unable to act, the Court is to defer to the legislative judgment. Even when an existing scheme has been judicially invalidated, it is appropriate to allow the legislative body to adopt a substitute. Wise v. Lipscomb, 437 U.S. 535 (1978).

Plaintiffs have agreed that Defendants' proposed plan complies with the Voting Rights Act. "But for" the absence of specific authority of counties to change their method of election, there would be agreement that the plan proposed by the Defendants is a legislative plan. Plaintiffs maintain, however, the absence of this authority removes any requirement

that this Court consider it to be a legislative plan.

Although the Supreme Court earlier had distinguished between "court-ordered" and "legislative" plans, in terms of applicable standards, the first delineation of the distinction appeared in Wise v. Lipscomb, 437 U.S. 535 (1978). Wise was a dilution case in which the City of Dallas, Texas conceded that its at-large election plan diluted minority voting strength. The city was allowed to propose a substitute. The district court accepted the City's mixed plan as "legislative." The Court of Appeals reversed, holding it was court ordered. The Supreme Court reinstated the district court opinion. There was no majority opinion in Wise. Six members of the Court believed the plan to be legislative, but they split 4 to 2 on the issue of the importance of Dallas' authority to apportion itself.

Justice White announced the ruling of this Court and wrote an opinion joined only by Justice Stewart. In their opinion, Dallas had the requisite authority. Justice Powell wrote a separate concurring opinion in which the Chief Justice, Justices Blackmun, and Rehnquist joined. Justice Powell was of the view that the authority of the City of Dallas to apportion itself was immaterial to the issue of whether the plan should be classified as legislative. Rather, the inquiry was whether the plan reflected the policy choices of the people's elected representatives. (Justices Marshall, Brennan, and Stevens dissented.)

In McDaniel v. Sanchez, 452 U.S. 130 (1981) the Court again considered the definition of "legislative" plan. McDaniel involved the question of when a plan produced in response to federal court litigation must be pre-cleared under

Section 5 of the Voting Rights Act. The Court elected to answer the question by classifying the plan. A legislative plan must be pre-cleared. A court ordered plan is not subject to Section 5. To classify the plan, the Court turned to Wise, and adopted Justice Powell's definition of "legislative":

> As Justice Powell pointed out in Wise v. Lipscomb, supra, the essential characteristics of a legislative plan is the exercise of legislative judgment. The fact that particular requirements of state law may not be satisfied before a plan is proposed to a federal court does not alter this essential characteristic. The applicability of Section 5 to specific remedial plans is a matter of federal law that federal courts should determine pursuant to a uniform federal law.
>
> 425 U.S. at 144

While Plaintiffs are correct in their assertion that the only issue before the McDaniel court was whether the plan was "legislative" for purposes of pre-

clearance, there is little support for their belief that the Court would adopt a different definition of "legislative" when the issue is the degree of deference due policy judgments made by local governmental bodies. Not a single member of the Court chose to limit the definition to the issue before the Court. Furthermore, as a matter of federal law, there is no justification for having the application of federal standards be determined by chance variations in state law, particularly when state law never contemplated the involvement of a federal court in the apportionment process.

The only courts to actually confront the issue have concluded that McDaniel's definition of "legislative" applies in non-Section 5 cases as well. See Judge Arnow's opinion in McMillan v. Escambia County, 559 F.Supp. 720, 724 (1984): "Justice Powell's concept as a principle

has equal force whether it is applied in a voting dilution suit or in a Section 5 pre-clearance suit." See also Farnum v. Burns, 561 F.Supp. 83, 92 (1983): "Deference to the defendants' plan is particularly appropriate in light of this Court's ruling at trial that it is legislative plan. This conclusion was based on [McDaniel]." (Farnum involved the apportionment of the Rhode Island Legislature, a jurisdiction not subject to Section 5 coverage.)

Plaintiffs rely on an opinion rendered by a panel of the Fifth Circuit in McMillan v. Escambia County, 688 F.2d 860 (1982), a decision rendered prior to Judge Arnow's Opinion cited above. In that case, which makes no mention of McDaniel, the Court concludes that under the controlling analysis of Wise, (which the Court finds to be Justice White's

opinion)[2], a plan cannot be legislative if the body proposing it lacks the authority under state law to apportion itself. Plaintiffs conclude that the panel deciding McMillan must have concluded that McDaniel was not applicable since McDaniel was decided over a year earlier. Equally plausible is the view adopted by Judge Arnow in Escambia on remand: "It [McDaniel] was not mentioned in the Appellate Court's decision for rehearing and, so this Court is advised, the parties to the appeal did not call it to the Appellate Court's attention." 559 F.Supp. at 723.

Even if Plaintiff is correct that McDaniel is not direct authority for this

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[2]The Court arrived at Justice White's opinion as controlling on the assumption that the three dissenters, who believed the plan in that case to be "court ordered," would take Justice White's more restrictive view of "legislative," rather than the more expansive view adopted by the four Justices in the other opinion.

case, it is at the very least persuasive authority for the definition of a legislative plan. Furthermore, four sitting members of the Supreme Court would, under Wise, label Defendants' plan "legislative." In light of these facts, McMillan cannot be seen as controlling authority.

CONCLUSION

The plan proposed by the Leon County Commission is the product of legislative judgment. It is a legislative plan regardless of whether the Commission has the authority under state law to apportion itself. Plaintiffs have agreed that the plan complies with Section 2 of the Voting Rights Act, and is, therefore, not dilutive. The primary rationale behind prohibiting at-large seats is to avoid submerging minority voting strength. Since Plaintiffs concede that no dilution will result from their inclusion, it is

difficult to imagine what federal policy would be furthered by this Court's imposition of an all single membered district plan.

The remedial plan adopted by the County Commission will be put into effect by order of the Court.

/s/
WILLIAM STAFFORD
Chief Judge

Dated: June 13, 1986